

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Case No. 3:20-cv-00019-FDW

WILLIAM F. MACKEY,

Plaintiff,

v.

**JOINT MOTION TO RESET TRIAL
DATE**

WELLS FARGO BANK, N.A.,

Defendant.

_____/

Plaintiff WILLIAM F. MACKEY and Defendant WELLS FARGO BANK, N.A., by their attorneys and pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, hereby move the Court to reset the trial in this action to the Court's April 1, 2021 trial term. In support of this motion, the parties state as follows:

1. This action is currently set for the Court's March 1, 2021 trial term.
2. On February 1, 2021, the parties filed their jointly-proposed pretrial submissions.

The parties' motions *in limine* and trial briefs are currently due February 22, 2021.

3. One of Defendant's trial attorneys, Ethan Goemann, and his wife are expecting the birth of their first child on or about February 21, 2021. Mr. Goemann has asked for and been granted 2 weeks of leave by his law firm following the birth of his child. If the trial proceeds as scheduled, Mr. Goemann will not be able to tend to his family's needs and prepare for and attend the trial.

4. In addition, Mecklenburg County currently is under a Public Health Director Directive through February 28, 2021 because "[f]rom late September to late-January the County has seen a 791% increase in average daily cases, 101 cases per day to 671 cases per day; a 543%

increase in patients with COVID-19 in the hospital: 81 per day to 455 per day; and an increase in positivity rate from 5.7% to 11.7%.”¹

5. Under the Public Health Director Directive, individuals are directed to “[s]tay home. Only leave your home for essential activities such as going to work (only if your work is essential) or childcare, for health care purposes, to care for family members or to buy food or other essential items.” Individuals are further directed to “[a]void gathering with individuals that you do not live with.”

6. North Carolina is currently under a Modified Stay At Home Order through February 28, 2021 due to the COVID-19 public health emergency.²

7. Mr. Goemann is currently working from home and avoiding contact with other individuals, other than family members, as he awaits the birth of his child. Mr. Goemann, for the health and safety of his family, desires to continue to limit contact with other individuals during the remainder of his wife’s pregnancy and immediately following the birth of their child.

8. On February 9, 2021, counsel for the parties conferred and agreed to request the Court to move the trial in this action to the April 1, 2021 trial term in light of Mr. Goemann’s personal situation.

9. The parties believe and represent that a modified trial setting is reasonable and necessary. It is not sought for any improper purpose and will not unnecessarily delay the resolution of this matter. The parties also have requested a judicial settlement conference, and will continue to focus on resolution and prepare for trial as necessary in February and March 2021.

¹ Mecklenburg County Public Health Director’s Directive to Protect Mecklenburg County Residents from COVID-19 (January 29, 2021), <https://www.mecknc.gov/COVID-19/Documents/MCPH-Directive-Revision-Jan-28.pdf>.

² Executive Order No. 189, Extension of the Modified Stay at Home Order, (January 27, 2021), <https://files.nc.gov/governor/documents/files/EO189-Further-Extension-of-Stay-at-Home-Order.pdf>.

WHEREFORE, the parties jointly move this Court to reset the trial in this action to the Court's April 1, 2021 trial term. A proposed Order to this effect is attached for the Court's consideration.

Respectfully submitted,

WILLIAM F. MACKEY

WELLS FARGO BANK, N.A.

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Attorneys for Defendant

Date: February 11, 2021

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WILLIAM F. MACKEY,

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v.

CERTIFICATE OF SERVICE

WELLS FARGO BANK, N.A.,

Defendant.

_____ /

I hereby certify that on February 11, 2021, I filed a true and correct copy of JOINT MOTION TO RESET TRIAL DATE with the Clerk of the Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following attorney of record:

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/s/ Frederick T. Smith

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